

David Keith Buff,) C.A. No. 5:11-234-TLW-KDW
)
Plaintiff,)
)
-versus-) ORDER
)
South Carolina Department of Corrections; Jon E. Ozmint,)
Director of South Carolina Department of Corrections;)
Current Unknown Director of South Carolina Department)
of Corrections; Elbert Pearson, Security Threat Group)
Coordinator; McKither Bodison, Warden; Wayne McCabe,)
Warden; Ralph Hunter, Associate Warden; Fred)
Thompson, Associate Warden; Eugene Skipper, Sergeant;)
Jamana Ravenell, Caseworker,)
)
Defendants.)
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grounds for amending an earlier judgment: (1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice. Pacific Ins. Co. v. American National Ins. Co., 148 F.3d 396 (4th Cir. 1998) *cert. denied*, 525 U.S. 1104 (1999). Thus, Rule 59(e) permits a District Court to correct its own errors, “sparing the parties and the appellate courts the burden of unnecessary appellate proceedings.” Id. (citing Russell v. Delco Remy Div. of Gen. Motors Corp., 51 F.3d 746, 749 (7th Cir. 1995)). Rule 59(e) motions may not be used, however, to raise arguments which could have been raised prior to the issuance of the judgment, nor may they be used to argue a case under a novel legal theory that the party had the ability to address in the first instance. Id. Similarly, if a party relies on newly discovered evidence in its Rule 59(e) motion, the party must produce a legitimate justification for not presenting the evidence during the earlier proceeding. Id. (citing Small v. Hunt, 98 F.3d 789, 798 (4th Cir. 1996)). In general, reconsideration of a judgment after its entry is an extraordinary remedy which should be used sparingly. Id.

Based upon the undersigned’s review of the record in this case, the undersigned concludes that no legally sufficient basis exists to alter or amend this Court’s July 24, 2012 Order in this case. In particular, the plaintiff fails to: show any intervening change in controlling law; account for any new evidence; or show clear error of law or manifest injustice. Therefore, plaintiff’s motion is **DENIED**. (Doc. # 73).

IT IS SO ORDERED.

s/ Terry L. Wooten

TERRY L. WOOTEN

UNITED STATES DISTRICT COURT JUDGE

September 18, 2012
Florence, South Carolina